

Please amend the application as follows:

Please delete the Specification (including claims and abstract) and insert the Substitute Specification (including claims and abstract) attached hereto as Exhibit A.

REMARKS

The Examiner asserted that "[t]he holes at the top of all pages of the application make reading and entry of amendments difficult. New application pages having appropriate margins are required." (Paper No. 7 at 4).

With view towards furthering prosecution and in accordance with 37 CFR § 1.125, a substitute specification (including claims and abstract), without any holes and in accordance with appropriate margins as indicated in 37 CFR § 1.52 (*see also* MPEP § 608.1) ("each sheet including a top margin of at least 2.0 cm (3/4 inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (3/4 inch), and a bottom margin of at least 2.0 cm (3/4 inch)") is hereby submitted as Exhibit A. It is submitted that no new matter has been introduced by the substitute specification, claims and abstract.

On page 2 of the Office Action, the Examiner issued a three-way restriction requirement pursuant to 35 USC § 121. The restriction divided the claims into the following allegedly distinct inventions. Group I drawn to "a cytochrome *c* oxidase," containing claims 1-21; Group II drawn to "a DNA encoding a cytochrome *c* oxidase, a vector containing it, a cell transformed with the same and a method of making a cytochrome *c* oxidase" containing claims 22-50; and Group III drawn to "a process for producing 2-keto-L-gluconic acid (2-KGA)" containing claims 51-55. (Paper No. 7 at 2).

In issuing the restriction requirements, the Examiner asserts that "[b]ecause these inventions are distinct ... restriction for examination purposes as indicated is proper." (*Id.* at 3).

In accordance with restriction practice, the subject matter of claims 22-50 (Group II) is hereby elected for prosecution with traverse.

For the reasons set forth above, examination on the merits and allowance of the claims respectfully is requested. If the Examiner has any questions regarding this paper, please contact the undersigned attorney.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Box Non-Fee Amendment, Commissioner for Patents, Washington, D.C. 20231 on February 11, 2002.



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Respectfully submitted,

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